

Under Federal Rule of Civil Procedure 41, a plaintiff may dismiss an action without a court order unless the opposing party has already served an answer or a motion for summary judgement. FED. R. CIV. P. 41(a)(1)(A). In this case, Respondent filed an “Answer,” (Doc. No.

4), and a “Motion for Summary Judgement,” (Doc. No. 5), prior to Petitioner filing his “Motion to Withdraw,” (Doc. No. 13). Therefore, an order from this Court is required pursuant to Rule 41(a)(2). Respondent has not responded or objected to Petitioner’s request. Therefore, the Court will **GRANT** Petitioner’s “Motion to Withdraw,” (Doc. No. 13).

#### **IV. CONCLUSION**

**IT IS, THEREFORE, ORDERED** that Petitioner’s “Motion to Withdraw,” (Doc. No. 13), is **GRANTED**, and his “Petition for Writ of Habeas Corpus,” (Doc. No. 1), is **DISMISSED** without prejudice.

Signed: January 20, 2012

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.  
Chief United States District Judge

